THE HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE BILAL NAZKI

WRIT PETITION No. 25322 of 2005

29-11-2005

Between:

V.Ravi Shankar Rao.

..... PETITIONER

AND

The District and Sessions Judge, Karimnagar & Another.

.....RESPONDENTS

THE HON'BLE SRI G.S.SINGHVI, THE CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE BILAL NAZKI

WRIT PETITION No. 25322 of 2005

ORDER: (Per Hon'ble Sri G.S.Singhvi, CJ)

This is a petition for quashing order dated 05.02.2004 passed by Registrar (Administration), High Court of Andhra Pradesh at Hyderabad, whereby he partly allowed the appeal filed by the petitioner against the order of punishment passed by District Judge, Karimnagar and reduced the penalty of stoppage of two annual increments with cumulative effect to that of one annual increment with cumulative effect.

The appellant is working as Bench Clerk (Criminal side) in the Court of Judicial Magistrate of First Class, Jagtial, District Karimnagar. In 1998, a departmental inquiry was initiated against him on the following charges:

> "**Article-I**
>
> That the said Sri V.Ravishankar Rao, L.D.C., M.M.Court, Jagtial while functioning as criminal Bench Clerk failed to discharge his duty in submitting to the Court of Sessions, Karimnagar Division the record in PRC.No.116/97 on the file of the Court of J.M.F.C., Jagtial immediately after its committal on 13-7-1998 and violated the direction issued in the Circular of the District Judge, Karimnagar in O.M.Dis.No. 7941/96, date 4-11-1996 and caused an abnormal delay of about 40 days in submitting the same and thereby he is guilty of misconduct and liable for punishment under Rule 9 read with Section 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991.
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> **Article-II**
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> That during the aforesaid period and while functioning as criminal Bench Clerk in the aforesaid office, the said Sri V.Ravishankar Rao, L.D.C., M.M.Court, Jagtial, on the 13th day of August, 1998 passed by the Judicial Magistrate of First Class, Jagtial in PRC.No.116 of 1997 without any authority or competence by altering and interpolating the date 13-8-1998 as

19-9-1998 and directed A-1 Mamidipalli Shankar, A-2 Konda Chandraiah, A-3 Nara Srinivas and A-5 Lingampalli Budamma @ Mandamma who are accused in the said PRC, to appear before the Court of J.M.F.C., Jagtial on 19-9-1998 without any order from the concerned Presiding Officer by making the altered and unauthorized date as genuine with an intention to conceal the delay and thereby he is guilty of misconduct and liable for punishment under Rule 9 read with Section 20 of the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991."

The petitioner filed written statement stating therein that on 13.07.1998, he was on one day's casual leave and Sri Samiulla Khan, Junior Assistant, who was looking after the work, had not kept the bundle of the relevant file separately to draw his attention and the same got mixed up with other files due to be called on 13.8.1998 and on that account, the record could not be placed before the Court. The disciplinary authority did not feel satisfied with his reply and ordered further proceedings. The Inquiry Officer found him guilty of the charges. After issuing notice to the petitioner, the disciplinary authority passed order dated 07.04.2003 where by it imposed penalty of stoppage of two annual increments with cumulative effect on the appellant.

The appellate authority i.e. Registrar (Administration), Andhra Pradesh High Court partly allowed the appeal preferred by the appellant against the order of punishment and reduced the penalty of stoppage of two increments with cumulative effect to that of one increment with cumulative effect. In the opinion of the appellate authority, the appellant had caused delay of seven days in dispatching the record in the PRC to the Sessions Court beyond the permissible time of thirty days and further that his action of correcting the date of appearance of the accused in the committal order was highly objectionable.

Learned Counsel for the petitioner argued that even the reduced penalty imposed by the appellate authority is excessive, unreasonable and disproportionate to the misconduct found proved and, therefore, this Court may issue appropriate writ to quash the appellate order.

We have considered the submission of the learned Counsel, but have not felt persuaded to agree with him. A careful reading of the order under challenge shows that the appellate authority considered the appellant's plea in a correct perspective and then reduced the punishment by making the following observations:

> *"After going through the record it is noticed that the appellant caused delay of seven (07) days in dispatching the record in the PRC to the Sessions Court beyond the period of 30 days permitted to submit the record. It is also noticed that when the matter stood posted on 13-8-1998, the Presiding Officer was on leave, therefore, the appellant gave the next date as 19-9-1998 to the accused which is being usually done by the Bench Clerks in the absence of Presiding Officer. The problem arose when the appellant adopted a difference method of correcting the date in the committal order instead of writing on the docket that the matter is adjourned to 19-9-1998 by mentioning the fact that the Presiding Officer was on leave. The correction of the date of appearance of the accused in the committal order is objectionable. He is not supposed to make any corrections in the order pronounced by the Presiding Officer without his permission or instructions, therefore, the enquiry officer as well as the District Judge rightly came to the conclusion that the appellant caused delay of seven (07) days in submitting the record and corrected the date of appearance of accused in the committal order. There are no grounds to interfere with the order of the disciplinary authority finding the appellant guilt.*
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> *Regarding the quantum of punishment, the tribunal awarded the penalty of stoppage of two increments with cumulative effect. The delay caused by the appellant in presenting the record is not abnormal. It was only the delay of seven (07) days. The appellant giving the next date of hearing to the accused on the date on which the matter stood posted is also not objectionable, but the only objectionable act that was committed by the appellant was the correction of the date of appearance of the accused in the committal order without the instructions of the Presiding Officer. In the light of the above circumstances, the High Court is of the view that the penalty of stoppage of two annual increments with cumulative effect*

is on higher side. The High Court therefore inclined to reduce the same to penalty of stoppage of one annual increment with cumulative effect, which is just and reasonable punishment commensurate with the gravity of misconduct.

In the result, the appeal is allowed in part. The finding of the enquiry officer and the disciplinary authority holding the appellant guilty of the charge is confirmed. The penalty of stoppage of two increments with cumulative effect imposed by the disciplinary authority is reduced to the penalty of stoppage of one increment with cumulative effect."

Undisputedly, the petitioner was found guilty of misconduct. The disciplinary authority imposed the penalty of stoppage of two annual increments, which, as mentioned above, was reduced by the appellate authority by taking a lenient view. In such matters, the scope of judicial review is extremely limited. The High Court can interfere with the quantum of punishment only if it is found that the discretion exercised by the employer and/competent authority is vitiated by an error apparent or the punishment is shockingly disproportionate to the misconduct found proved. For this purpose, reference may be made to the decision of the Supreme Court in **Om Kumar & others Vs. Union of India**.

In our opinion, the punishment imposed by the appellate authority cannot be termed as disproportionate to the misconduct found proved against the petitioner-appellant. He had not only delayed the dispatch of the record but also tampered with the date specified in the order of the Presiding Officer for the purpose of appearance of the accused. This was an extremely serious matter. The disciplinary authority and the appellate authority appears to have taken a lenient view in the matter. Therefore, we do not see any reason to interfere with the order under challenge.

There is another reason for our disinclination to entertain the appellant's prayer for quashing the order of the appellate authority. The writ petition had been filed after a delay of one year and almost

nine months from the date of the appellate order. The appellant had not explained this long time gap. Therefore, it is reasonable to hold that he is guilty of laches.

For the reasons stated above, the writ petition is dismissed. No order as to costs.

(G.S.SINGHVI, HCJ)

29th November 2005

(BILAL NAZKI, J)

ajr